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TESTIMONY OF  
THE  
MARYLAND INSURANCE ADMINISTRATION  
BEFORE THE  
SENATE FINANCE COMMITTEE

MARCH 22, 2022

SENATE BILL 1004 – HEALTH INSURANCE - PHARMACY BENEFITS MANAGERS - REIMBURSEMENT  
AMOUNTS

**POSITION: LETTER OF INFORMATION**

Thank you for the opportunity to provide written comments on SB 1004.

SB 1004, if enacted, would create a new § 15-1628.3(c) of the Insurance Article. Proposed § 15-1628.3(c) establishes the minimums that a Pharmacy Benefits Manager (PBM) must reimburse a pharmacy or pharmacist for a prescription drug or pharmacy service. In addition, proposed § 15-1628.3(c)(3) would allow the Maryland Insurance Administration (MIA) Commissioner to require that a pharmacy benefits manager pay “a fee,” to be determined by the Commissioner, in addition to the reimbursement amount required under this subsection. The Commissioner would also have the option of issuing regulations to carry out the subtitle, including a process for periodically reviewing and recalculating “the reimbursement amount” under this subsection.

The MIA has identified several technical issues with the bill as drafted.

First, §15-1628.3(c) effectively creates a new payment model, where the standard minimum reimbursement amount is NADAC plus 10%. This conflicts with existing § 15-1628.1 (not changed by SB 1004) which addresses Maximum Allowable Cost (MAC) pricing, as well as existing § 15-1628.3(a) and (b) (also not changed by SB 1004).

Second, the proposed bill would vest the Commissioner with discretion to determine when a PBM should be required to pay an additional amount as a fee to pharmacists and to

promulgate regulations to review and recalculate any pharmacy reimbursement amounts. As drafted, SB 1004 does not identify what the additional fee is for and provides no guidance or standards for when such a fee would be appropriate and no benchmark for setting the fee. Likewise, SB 1004 would empower the Commissioner to adopt regulations to review and “recalculate” pharmacy reimbursement amounts, also without benchmarks or standards to be used to guide any such review or recalculation.

The MIA does not believe that setting reimbursement rates and fee schedules for pharmacy services is properly within the purview of the Insurance Commissioner. It is the role of the Commissioner to enforce reimbursement and fee standards set by the legislature or other governmental authorities. **Given this, the MIA respectfully suggests that § 15-1628.3(c)(3) be removed and/or replaced with a different methodology for establishing any additional fees to be paid by PBMs and for adjusting reimbursement rates and fees, which the MIA would then enforce.**

The MIA thanks the committee for its attention to this information concerning SB 1004.